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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES, an individual; and  
DISABILITY RIGHTS,  
ENFORCEMENT, EDUCATION,  
SERVICES: HELPING YOU HELP  
OTHERS, a California public benefit  
corporation,

Plaintiff,

vs.

BURGER KING #3157; SYERS  
PROPERTIES I, LP, a limited  
partnership and CENTENNIAL  
RESTAURANTS LLC, a limited liability  
company,

Defendants.

Case No. C08-00737 JCS

**DEFENDANT SYERS PROPERTIES I,  
LP'S ANSWER TO COMPLAINT FOR  
INJUNCTIVE RELIEVE AND DAMAGES**

**Demand for Jury Trial**

**INTRODUCTION**

1. Answering paragraph 1, Defendant Syers Properties I, LP ("Defendant") is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

1           2.     Answering paragraph 2, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4                           **JURISDICTION AND VENUE**

5           3.     Answering paragraph 3, Defendant is without sufficient knowledge or  
6 information to form a belief as to the truth of the allegations contained in said  
7 paragraph, and on that basis denies each and every allegation contained therein.

8           4.     Answering paragraph 4, Defendant is without sufficient knowledge or  
9 information to form a belief as to the truth of the allegations contained in said  
10 paragraph, and on that basis denies each and every allegation contained therein.

11                           **PARTIES**

12           5.     Answering paragraph 5, Defendant is without sufficient knowledge or  
13 information to form a belief as to the truth of the allegations contained in said  
14 paragraph, and on that basis denies each and every allegation contained therein.

15           6.     Answering paragraph 6, Defendant is without sufficient knowledge or  
16 information to form a belief as to the truth of the allegations contained in said  
17 paragraph, and on that basis denies each and every allegation contained therein.

18           7.     Answering paragraph 7, Defendant is without sufficient knowledge or  
19 information to form a belief as to the truth of the allegations contained in said  
20 paragraph, and on that basis denies each and every allegation contained therein.

21           8.     Answering paragraph 8, Defendant admits that it is the lessor of the  
22 premises located at or near 211 McDowell Boulevard, Petaluma, California, but and for  
23 that admission is without sufficient knowledge or information to form a belief as to the  
24 truth of the remaining allegations contained in said paragraph, and on that basis denies  
25 each and every allegation contained therein.

26           9.     Answering paragraph 9, Defendant admits that the Burger King restaurant  
27 is open to the general public, and but and for that admission is without sufficient  
28

1 knowledge or information to form a belief as to the truth of the remaining allegations  
2 contained in said paragraph, and on that basis denies each and every allegation  
3 contained therein.

4 10. Answering paragraph 10, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7 **PRIMARY FACTUAL ALLEGATIONS**

8 11. Answering paragraph 11, Defendant admits that Burger King is a  
9 restaurant located at or near 211 McDowell Boulevard, Petaluma, California, and but  
10 and for that admission is without sufficient knowledge or information to form a belief as  
11 to the truth of the remaining allegations contained in said paragraph, and on that basis  
12 denies each and every allegation contained therein.

13 12. Answering paragraph 12, Defendant is without sufficient knowledge or  
14 information to form a belief as to the truth of the allegations contained in said  
15 paragraph, and on that basis denies each and every allegation contained therein.

16 13. Answering paragraph 13, Defendant is without sufficient knowledge or  
17 information to form a belief as to the truth of the allegations contained in said  
18 paragraph, and on that basis denies each and every allegation contained therein.

19 14. Answering paragraph 14, Defendant is without sufficient knowledge or  
20 information to form a belief as to the truth of the allegations contained in said  
21 paragraph, and on that basis denies each and every allegation contained therein.

22 15. Answering paragraph 15, Defendant is without sufficient knowledge or  
23 information to form a belief as to the truth of the allegations contained in said  
24 paragraph, and on that basis denies each and every allegation contained therein.

25 16. Answering paragraph 16, Defendant is without sufficient knowledge or  
26 information to form a belief as to the truth of the allegations contained in said  
27 paragraph, and on that basis denies each and every allegation contained therein.  
28

1           17. Answering paragraph 17, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4           18. Answering paragraph 18, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7           19. Answering paragraph 19, Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the allegations contained in said  
9 paragraph, and on that basis denies each and every allegation contained therein.

10          20. Answering paragraph 20, Defendant is without sufficient knowledge or  
11 information to form a belief as to the truth of the allegations contained in said  
12 paragraph, and on that basis denies each and every allegation contained therein.

13          21. Answering paragraph 21, Defendant is without sufficient knowledge or  
14 information to form a belief as to the truth of the allegations contained in said  
15 paragraph, and on that basis denies each and every allegation contained therein.

16          22. Answering paragraph 22, Defendant is without sufficient knowledge or  
17 information to form a belief as to the truth of the allegations contained in said  
18 paragraph, and on that basis denies each and every allegation contained therein.

19          23. Answering paragraph 23, Defendant is without sufficient knowledge or  
20 information to form a belief as to the truth of the allegations contained in said  
21 paragraph, and on that basis denies each and every allegation contained therein.

22          24. Answering paragraph 24, Defendant is without sufficient knowledge or  
23 information to form a belief as to the truth of the allegations contained in said  
24 paragraph, and on that basis denies each and every allegation contained therein.

25          25. Answering paragraph 25, Defendant is without sufficient knowledge or  
26 information to form a belief as to the truth of the allegations contained in said  
27 paragraph, and on that basis denies each and every allegation contained therein.  
28

1           26. Answering paragraph 26, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4           27. Answering paragraph 27, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7           28. Answering paragraph 28, Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the allegations contained in said  
9 paragraph, and on that basis denies each and every allegation contained therein.

10          29. Answering paragraph 29, Defendant is without sufficient knowledge or  
11 information to form a belief as to the truth of the allegations contained in said  
12 paragraph, and on that basis denies each and every allegation contained therein.

13          30. Answering paragraph 30, Defendant is without sufficient knowledge or  
14 information to form a belief as to the truth of the allegations contained in said  
15 paragraph, and on that basis denies each and every allegation contained therein.

16          31. Answering paragraph 31, Defendant is without sufficient knowledge or  
17 information to form a belief as to the truth of the allegations contained in said  
18 paragraph, and on that basis denies each and every allegation contained therein.

19          32. Answering paragraph 32, Defendant is without sufficient knowledge or  
20 information to form a belief as to the truth of the allegations contained in said  
21 paragraph, and on that basis denies each and every allegation contained therein.

22          33. Answering paragraph 33, Defendant is without sufficient knowledge or  
23 information to form a belief as to the truth of the allegations contained in said  
24 paragraph, and on that basis denies each and every allegation contained therein.

25          34. Answering paragraph 34, Defendant is without sufficient knowledge or  
26 information to form a belief as to the truth of the allegations contained in said  
27 paragraph, and on that basis denies each and every allegation contained therein.  
28

1           35. Answering paragraph 35, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4           36. Answering paragraph 36, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7           37. Answering paragraph 37, Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the allegations contained in said  
9 paragraph, and on that basis denies each and every allegation contained therein.

10          38. Answering paragraph 38, Defendant is without sufficient knowledge or  
11 information to form a belief as to the truth of the allegations contained in said  
12 paragraph, and on that basis denies each and every allegation contained therein.

13          39. Answering paragraph 39, Defendant is without sufficient knowledge or  
14 information to form a belief as to the truth of the remaining allegations contained in said  
15 paragraph, and on that basis denies each and every allegation contained therein.

16          40. Answering paragraph 40, Defendant is without sufficient knowledge or  
17 information to form a belief as to the truth of the allegations contained in said  
18 paragraph, and on that basis denies each and every allegation contained therein.

19          41. Answering paragraph 41, Defendant admits that Plaintiffs seek injunctive  
20 relief, and but and for that admission is without sufficient knowledge or information to  
21 form a belief as to the truth of the remaining allegations contained in said paragraph,  
22 and on that basis denies each and every allegation contained therein.

23          42. Answering paragraph 42, Defendant admits that Plaintiffs seek damages  
24 for alleged violations of their civil rights, and but and for that admission is without  
25 sufficient knowledge or information to form a belief as to the truth of the remaining  
26 allegations contained in said paragraph, and on that basis denies each and every  
27 allegation contained therein.  
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1           43. Answering paragraph 43, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4           44. Answering paragraph 44, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7           45. Answering paragraph 45, Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the allegations contained in said  
9 paragraph, and on that basis denies each and every allegation contained therein.

10          46. Answering paragraph 46, Defendant is without sufficient knowledge or  
11 information to form a belief as to the truth of the allegations contained in said  
12 paragraph, and on that basis denies each and every allegation contained therein.

13          47. Answering paragraph 47, Defendant is without sufficient knowledge or  
14 information to form a belief as to the truth of the allegations contained in said  
15 paragraph, and on that basis denies each and every allegation contained therein.

16          48. Answering paragraph 48, Defendant is without sufficient knowledge or  
17 information to form a belief as to the truth of the allegations contained in said  
18 paragraph, and on that basis denies each and every allegation contained therein.

19                           **FIRST CAUSE OF ACTION**

20          49. Answering paragraph 49, Defendant incorporates herein by reference  
21 each and every response to its answers to paragraphs 1 through 48 of the Complaint.

22          50. Answering paragraph 50, 42 U.S.C. § 12101 speaks for itself; otherwise,  
23 Defendant is without sufficient knowledge or information to form a belief as to the truth  
24 of the allegations contained in said paragraph, and on that basis denies each and every  
25 allegation contained therein.

26          51. Answering paragraph 51, 42 U.S.C. § 12102 speaks for itself; otherwise,  
27 Defendant is without sufficient knowledge or information to form a belief as to the truth  
28



1 of the allegations contained in said paragraph, and on that basis denies each and every  
2 allegation contained therein.

3 52. Answering paragraph 52, 42 U.S.C. § 12181 et seq. speaks for itself;  
4 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
5 to the truth of the allegations contained in said paragraph, and on that basis denies  
6 each and every allegation contained therein.

7 53. Answering paragraph 53, 42 U.S.C. § 12182 speaks for itself; otherwise,  
8 Defendant is without sufficient knowledge or information to form a belief as to the truth  
9 of the allegations contained in said paragraph, and on that basis denies each and every  
10 allegation contained therein.

11 54. Answering paragraph 54, § 302(b)(2)(a), 42 U.S.C. § 12182(b)(2)(a)  
12 speaks for itself; otherwise, Defendant is without sufficient knowledge or information to  
13 form a belief as to the truth of the allegations contained in said paragraph, and on that  
14 basis denies each and every allegation contained therein.

15 55. Answering paragraph 55, Defendant is without sufficient knowledge or  
16 information to form a belief as to the truth of the allegations contained in said  
17 paragraph, and on that basis denies each and every allegation contained therein.

18 56. Answering paragraph 56, 42 U.S.C. § 12181(9) speaks for itself;  
19 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
20 to the truth of the allegations contained in said paragraph, and on that basis denies  
21 each and every allegation contained therein.

22 57. Answering paragraph 57, Defendant is without sufficient knowledge or  
23 information to form a belief as to the truth of the allegations contained in said  
24 paragraph, and on that basis denies each and every allegation contained therein.

25 58. Answering paragraph 58, 42 U.S.C. § 12188 speaks for itself; otherwise,  
26 Defendant is without sufficient knowledge or information to form a belief as to the truth  
27 of the allegations contained in said paragraph, and on that basis denies each and every  
28



1 allegation contained therein.

2 59. Answering paragraph 59, 42 U.S.C. § 12188(a)(1) speaks for itself;  
3 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
4 to the truth of the allegations contained in said paragraph, and on that basis denies  
5 each and every allegation contained therein.

6 60. Answering paragraph 60, Defendant admits Plaintiffs are seeking  
7 injunctive relief, and but and for that admission, Defendant is without sufficient  
8 knowledge or information to form a belief as to the truth of the allegations contained in  
9 said paragraph, and on that basis denies each and every allegation contained therein.

10 **SECOND CAUSE OF ACTION**

11 61. Answering paragraph 61, Defendant incorporates herein by reference  
12 each and every response to its answers to paragraphs 1 through 60 of the Complaint.

13 62. Answering paragraph 62, California Civil Code § 54 speaks for itself;  
14 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
15 to the truth of the allegations contained in said paragraph, and on that basis denies  
16 each and every allegation contained therein.

17 63. Answering paragraph 63, California Civil Code § 54.1 speaks for itself;  
18 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
19 to the truth of the allegations contained in said paragraph, and on that basis denies  
20 each and every allegation contained therein.

21 64. Answering paragraph 64, California Civil Code § 54.1 speaks for itself;  
22 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
23 to the truth of the allegations contained in said paragraph, and on that basis denies  
24 each and every allegation contained therein.

25 65. Answering paragraph 65, California Civil Code § 54.3(a) speaks for itself;  
26 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
27 to the truth of the allegations contained in said paragraph, and on that basis denies  
28

1 each and every allegation contained therein.

2 66. Answering paragraph 66, Defendant is without sufficient knowledge or  
3 information to form a belief as to the truth of the allegations contained in said  
4 paragraph, and on that basis denies each and every allegation contained therein.

5 67. Answering paragraph 67, Defendant is without sufficient knowledge or  
6 information to form a belief as to the truth of the allegations contained in said  
7 paragraph, and on that basis denies each and every allegation contained therein.

8 68. Answering paragraph 68, Defendant is without sufficient knowledge or  
9 information to form a belief as to the truth of the allegations contained in said  
10 paragraph, and on that basis denies each and every allegation contained therein.

11 69. Answering paragraph 69, Defendant is without sufficient knowledge or  
12 information to form a belief as to the truth of the allegations contained in said  
13 paragraph, and on that basis denies each and every allegation contained therein.

14 70. Answering paragraph 70, Defendant is without sufficient knowledge or  
15 information to form a belief as to the truth of the allegations contained in said  
16 paragraph, and on that basis denies each and every allegation contained therein.

17 **THIRD CAUSE OF ACTION**

18 71. Answering paragraph 71, Defendant incorporates herein by reference  
19 each and every response to its answers to paragraphs 1 through 70 of the Complaint.

20 72. Answering paragraph 72, Health & Safety Code § 19955 speaks for itself;  
21 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
22 to the truth of the allegations contained in said paragraph, and on that basis denies  
23 each and every allegation contained therein.

24 73. Answering paragraph 73, Health & Safety Code § 19956 speaks for itself;  
25 otherwise, Defendant is without sufficient knowledge or information to form a belief as  
26 to the truth of the allegations contained in said paragraph, and on that basis denies  
27 each and every allegation contained therein.

1           74. Answering paragraph 74, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4           75. Answering paragraph 75, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7           76. Answering paragraph 76, Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the allegations contained in said  
9 paragraph, and on that basis denies each and every allegation contained therein.

10          77. Answering paragraph 77, Defendant is without sufficient knowledge or  
11 information to form a belief as to the truth of the allegations contained in said  
12 paragraph, and on that basis denies each and every allegation contained therein.

13          78. Answering paragraph 78, Defendant is without sufficient knowledge or  
14 information to form a belief as to the truth of the allegations contained in said  
15 paragraph, and on that basis denies each and every allegation contained therein.

16                           **FOURTH CAUSE OF ACTION**

17          79. Answering paragraph 79, Defendant incorporates herein by reference  
18 each and every response to its answers to paragraphs 1 through 78 of the Complaint.

19          80. Answering paragraph 80, the Unruh Act speaks for itself; otherwise,  
20 Defendant is without sufficient knowledge or information to form a belief as to the truth  
21 of the allegations contained in said paragraph, and on that basis denies each and every  
22 allegation contained therein.

23          81. Answering paragraph 81, Civil Code § 51.5 speaks for itself; otherwise,  
24 Defendant is without sufficient knowledge or information to form a belief as to the truth  
25 of the allegations contained in said paragraph, and on that basis denies each and every  
26 allegation contained therein.

1           82. Answering paragraph 82, Defendant is without sufficient knowledge or  
2 information to form a belief as to the truth of the allegations contained in said  
3 paragraph, and on that basis denies each and every allegation contained therein.

4           83. Answering paragraph 83, Defendant is without sufficient knowledge or  
5 information to form a belief as to the truth of the allegations contained in said  
6 paragraph, and on that basis denies each and every allegation contained therein.

7           84. Answering paragraph 84, Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the allegations contained in said  
9 paragraph, and on that basis denies each and every allegation contained therein.

10                           **AFFIRMATIVE DEFENSES**

11                           **FIRST AFFIRMATIVE DEFENSE**

12           The Complaint as a whole, and each cause of action asserted therein, fails to  
13 state a claim upon which relief may be granted.

14                           **SECOND AFFIRMATIVE DEFENSE**

15           Defendant is informed and believes, and based thereon alleges, that Plaintiffs'  
16 Complaint, or parts thereof, is barred by the applicable statutes of limitations.

17                           **THIRD AFFIRMATIVE DEFENSE**

18           Although Defendant denies that Plaintiffs have been damaged in any way, if it  
19 should be determined that Plaintiffs have been damaged, then Defendant alleges,  
20 based on information and belief, that the proximate cause of such damage was the  
21 conduct of Plaintiffs or others for which Defendant was not and is not responsible.

22                           **FOURTH AFFIRMATIVE DEFENSE**

23           Defendant alleges, based on information and belief, that Plaintiffs' Complaint,  
24 or parts thereof, is barred because the accommodations sought by Plaintiffs are not  
25 required by law.

26                           **FIFTH AFFIRMATIVE DEFENSE**

27           Defendant alleges, based on information and belief, that any and all relevant  
28

1 portions of the Restaurant are reasonably accessible to and usable by individuals with  
2 disabilities in accordance with the Americans with Disabilities Act and state statutes,  
3 and therefore Defendant is in compliance with applicable law.

4 SIXTH AFFIRMATIVE DEFENSE

5 Plaintiffs may not recover compensatory or punitive damages as a matter of law.

6 SEVENTH AFFIRMATIVE DEFENSE

7 Defendant alleges, based on information and belief, that the Complaint seeks  
8 accommodations and modifications of the facility that are excused by law because they  
9 are not readily achievable, would fundamentally alter the nature of the goods and  
10 services offered and/or would impose an undue hardship.

11 EIGHTH AFFIRMATIVE DEFENSE

12 Defendant alleges, based on information and belief, that at all times relevant to  
13 the Complaint, Defendant had good faith defenses, based in law and/or fact, which if  
14 successful would preclude any recovery by Plaintiffs based on the allegations of the  
15 Complaint.

16 NINTH AFFIRMATIVE DEFENSE

17 Although Defendant denies that Plaintiffs have been damaged in any way, if it  
18 should be determined that Plaintiffs have been damaged, then Defendant alleges,  
19 based on information and belief, that Plaintiffs have failed to mitigate their purported  
20 damages and further allege that, to the extent any damages could have been mitigated,  
21 such sums should be deducted from any award of damages.

22 TENTH AFFIRMATIVE DEFENSE

23 Although Defendant denies that Plaintiffs have been damaged in any way, if it  
24 should be determined that Plaintiffs have been damaged, then Defendant alleges,  
25 based on information and belief, that Defendant is entitled to have the amount abated,  
26 apportioned or reduced to the extent that any other parties' actions caused or  
27 contributed to damage, if there were any.

1                    ELEVENTH AFFIRMATIVE DEFENSE

2            Defendant alleges, based on information and belief, that the Complaint, and  
3 each cause of action contained therein, is barred by the doctrines of estoppel and/or  
4 unclean hands.

5                    TWELFTH AFFIRMATIVE DEFENSE

6            Defendant alleges, based on information and belief, that the Complaint, and  
7 each cause of action contained therein, is based on statutes that, in the context of this  
8 lawsuit, are void, invalid and otherwise unenforceable as violative of the due process  
9 clauses of the United States and California Constitutions.

10                  THIRTEENTH AFFIRMATIVE DEFENSE

11           Defendant alleges, based on information and belief, that Plaintiffs' Complaint is  
12 barred to the extent that it seeks equivalent service, access and enjoyment of the  
13 Restaurant which is excused by law because it is not readily achievable and/or  
14 alternative methods of accessibility are availability.

15                  FOURTEENTH AFFIRMATIVE DEFENSE

16           Defendant alleges, based on information and belief, that Plaintiffs' Complaint,  
17 and each cause of action contained therein, fails as a matter of law because Plaintiffs  
18 failed to give Defendant notice of the need for accommodation or assistance.

19                  FIFTEENTH AFFIRMATIVE DEFENSE

20           Defendant alleges that to the extent Plaintiffs' claims seek to deprive Defendant  
21 of the use of the Restaurant or to fundamentally alter the use of Defendant's property,  
22 such claims would be barred as an unfair taking of property under the United States  
23 and California Constitutions.

24                  SIXTEENTH AFFIRMATIVE DEFENSE

25           Defendant alleges that plaintiffs are vexatious litigants within the meaning of  
26 Molski v. Evegreen Dynasty (9<sup>th</sup> Cir. 2007) 500 F.3d 104).

27           Wherefore, Syers Properties I, LP prays for the following relief:  
28

1. That Plaintiffs take nothing by reason of their Complaint;
2. That judgment be entered in favor of Syers Properties I, LP;
3. For costs of suit incurred herein;
4. For attorneys' fees; and
5. For such other and further relief as the Court deems proper.

DATED: April 28, 2008

SARRAIL, LYNCH & HALL, LLP

By: 

Ivanka F. Ackbari  
Attorneys for Defendant  
Syers Properties I, LP

**DEMAND FOR JURY TRIAL**

Defendant Syers Properties I, LP hereby demands a jury for all claims for which a jury is permitted.

DATED: April 28, 2008

SARRAIL, LYNCH & HALL, LLP

By: 

Ivanka F. Ackbari  
Attorneys for Defendant  
Syers Properties I, LP